

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PHARMASTEM THERAPEUTICS, INC.,
a Delaware corporation,

Plaintiff,

v.

VIACELL, INC., a Delaware corporation,
OBSTETRICAL AND
GYNECOLOGICAL ASSOCIATES, P.A.,
and FEMPARTNERS, INC., a Delaware
corporation,

Defendants.

Civil Action No.: 04-CV-11673-RWZ

[PROPOSED] ORDER

Now before the Court is Plaintiff PharmaStem Therapeutics, Inc.'s motion to preliminarily enjoin defendant ViaCell, Inc. from future infringement of Claim 17 of United States Patent No. 6,461,645 B1 and Claims 46 and 49 of United States Patent No. 6,569,427 B1 (collectively, the "Patents-In-Suit"), pursuant to 35 U.S.C. § 283 (hereinafter, the "Motion"). Having carefully reviewed the parties' papers and considered their arguments and the relevant legal authority, and good cause appearing, the Motion is **HEREBY GRANTED**.

WHEREAS, PharmaStem Therapeutics, Inc. is the owner of patented inventions generally directed toward therapeutic compositions of fetal or neonatal hematopoietic stem and progenitor cells of the blood derived from the umbilical cord or placenta of a newborn at birth ("cord blood"), and methods of isolating, preserving, and using such compositions;

WHEREAS, ViaCell, Inc. is a private cord blood bank that offers the services of aiding and assisting its clients with the collection of their newborn's cord blood, and who cryopreserves and stores it for future therapeutic use by the donors or their family members, should the need arise;

WHEREAS, PharmaStem Therapeutics, Inc. is entitled to preliminary injunctive relief in order to prevent ViaCell, Inc.'s infringement of the Patents-In-Suit; and

WHEREAS, PharmaStem Therapeutics, Inc. does not desire to deny any family or client who has already stored or banked their cord blood with ViaCell, Inc. access to their cord blood units for medical use, should the need arise, or to diminish the medical value of any such cord blood units already in storage;

IT IS HEREBY ORDERED THAT ViaCell, Inc. is hereby **PRELIMINARILY ENJOINED AND RESTRAINED** from cryopreserving and storing cord blood for future therapeutic use in hematopoietic reconstitution in any case in which the cord blood has not already been collected by or on behalf of ViaCell, Inc. and/or its clients as of the date of the entry of this Order.

IT IS SO ORDERED.

Date: _____, 2005

Rya W. Zobel
UNITED STATES DISTRICT JUDGE